THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.15239, 15242, 15243,
15245, 15261,15291 and 15292 of 2006

Dated: 27-07-2006

Between:

B. Srinivasa Rao and others.

..... PETITIONERS

AND

The Mandal Revenue Officer,
Patancheruvu Mandal, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.15239, 15242, 15243, 15245, 15261,15291 and 15292 of 2006

COMMON ORDER:

The background of these cases is common and therefore, it is expedient to dispose of all the matters by common order.

The petitioners in all these writ petitions are residents of Ameenpur Village of Patancheru Mandal in Medak District. During 1996, all of them purchased land admeasuring about 160 to 240 sq. yards allegedly under registered sale deeds from different persons. They allege that they also raised residential tenements therein. On 15-07-2006, the respondents allegedly went to the petitioners' houses and demolished the constructions made by them. Therefore, all these writ petitions are filed praying writ of Mandamus declaring the action of the respondents in demolishing the petitioners' houses bearing various numbers comprised in survey No.673/2 in various plots as illegal and arbitrary, and for a consequential direction not to demolish their houses or dispossess them from the land.

When these matters are listed on 25-07-2006, the learned Assistant Government Pleader for Revenue (General), on instructions, submitted that as per the revenue records, the land was registered as Kariz khata (government land) and that when the petitioners dumped cement hallow bricks with a view to raise constructions on the encroached land, the revenue officials prevented them to proceed further. This Court, therefore, adjourned the matters to enable the learned Assistant Government Pleader to produce the relevant revenue record.

When the matters are called today, the learned Assistant Government Pleader submits that the land admeasuring Acs.2.10 guntas comprised in survey No.673 of Ameenpur Village was assigned to one Bantu Mallaiah, as he was identified as a person to be below poverty line. However, Bantu Mallaiah sold the land in contravention of the assignment conditions, therefore as per the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity), the Mandal Revenue Officer (MRO), Patancheru, first respondent herein, resumed the land to the Government and subsequently classification of the land was changed as Kariz khata by proceedings dated 26-02-1999. He also submits that during the recent elections to Mandal Parishad Territorial Constituencies/Zilla Parishad Territorial Constituencies, when the revenue officials were busy with the elections, taking advantage of the same, the petitioners made attempts

to raise constructions in the said land, which were removed. He also placed before this Court a copy of the instructions received by him from MRO as well as the pahanies of Ameenpur Village of the years from 1999-2000 to 2004-2005 in respect of survey No.673 (new survey No.41).

A perusal of the pahanies would show that the land is classified as Kariz khata/government poramboke as per the proceedings dated 26-02-1999. The pahani for the year 1999-2000 also shows that in the column 'katadar/pattadar', originally the name of Bantu Mallaiah was shown, but subsequently it was changed as Kariz khata which was continued so in the pahanies for the subsequent years. Be that as it is as per the instructions obtained by the learned Assistant Government Pleader admittedly Bantu Mallaiah sold the land to others. It is not clear whether MRO issued any notice to the transferees while taking action of resumption of the land. It is also not clear whether MRO issued any notice to the petitioners. The petitioners allege that they have purchased property in 1996 and when the land was resumed by MRO under the Act in 1999, non-issue of notice to them would be certainly unfair. There is a dispute as to whether the petitioners are still in possession of the land or not. The learned Assistant Government Pleader strenuously contends that the land is in possession of the Government and the same was never assigned to anybody after it was resumed in 1999. This is, however, disputed by the learned counsel for the petitioners, who submits that the petitioners are in possession of the land from the date of their purchase and that unless and until they are evicted in accordance with due process of law, they cannot be dispossessed.

After giving anxious consideration to the case and counter case as contended by both the counsel, this Court is of the considered opinion that if the petitioners are in possession of the land, even after the resumption orders by MRO, they can only be evicted after following due process of law. If the petitioners or their vendors are already given notices in 1999 while taking action of resumption under the provisions of the Act, even if they are in possession of the land, MRO has to take necessary action as per the Andhra Pradesh Land Encroachment Act, 1905, as the land is now converted and reclassified as Kariz khata. Till then there shall be *status quo*.

The writ petitions, with the above observations and directions, are accordingly disposed of. No costs.

V.V.S.RAO, J

27th July 2006
ghn